



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Damon Co.
File: B-224821
Date: October 6, 1986

DIGEST

1. Late bid was properly rejected where there was no allegation or indication of government mishandling and bid, although sent by registered or certified mail, was mailed less than 5 days before bid opening. Fact that delay in submitting bid was due to protester's attempts to clarify a provision in the invitation for bids (IFB) with the contracting agency provides no basis for consideration of the late bid.
2. Protest challenging invitation for bids' failure to specify type of metal to be used for address plates being procured is untimely where not filed before bid opening.

DECISION

Damon Co. protests the rejection of its bid under invitation for bids (IFB) No. 2FC-EAI-A-A4386-S issued by the General Services Administration (GSA) for metal address plates and other office supplies. We dismiss the protest.

Bids under the IFB were due on September 11, 1986 at 11 a.m. The protester states that it received the IFB on August 13 and planned to submit a bid for one item, metal address plates. According to the protester, because the IFB did not specify what kind of metal should be used for the plates, the protester sought clarification from the contracting official identified in the IFB as the contact point. That official was on vacation, however, and the protester instead spoke with another GSA official who stated that no specific metal had been designated for the address plates. This advice subsequently was confirmed by the contracting official identified in the IFB, who also advised the protester that a "common use" metal should be provided. The protester states that it found this reply unsatisfactory because the term "common use" metal could include all 15 types of metal used by the protester for manufacturing address plates.

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The protester next contacted another GSA official who, according to the protester, is responsible for devising specifications for the address plates. This official also confirmed that there was no metal specification. The protester agreed to send samples of its plates to the official to assist him in determining what metal should be specified. On September 9, the GSA official advised the protester of his decision regarding the metal specification to be used in future procurements. The protester states that it then prepared and sent its bid by registered or certified mail that same day.

By letter dated September 19, GSA advised the protester that its bid had been rejected as late because it was not received until September 12 at 10:24 a.m., approximately one day after bid opening on September 11. The protester challenges the rejection of its bid, arguing that the delay in submitting its bid was due to its efforts to ascertain the metal specification for the address plates. The fact that the delay was the result of the protester's attempts to clarify what it believed was a defect in the IFB, however, does not permit consideration of its late bid.

A late bid may be considered only where (1) it was sent by registered or certified mail not later than 5 calendar days before the bid receipt date or (2) it was sent by mail and it is determined that the late receipt was due solely to government mishandling after receipt at the government installation. Federal Acquisition Regulation, 48 C.F.R. § 14.304-1 (1985); Ralph Construction, Inc., B-220006, Dec. 12, 1985, 85-2 CPD ¶ 650. Since the protester's bid was sent by registered or certified mail only 2 days before the bid opening date, the bid cannot be considered under the 5-day mailing rule. Further, the protester does not contend, and there is no indication in the record, that late receipt of the bid was due to government mishandling. Accordingly, there was no basis on which GSA could accept the protester's late bid.

Finally, the protest is untimely to the extent that the protester is now challenging the IFB as defective due to the lack of a metal specification, since a protest on that ground concerns an alleged impropriety apparent on the face of the IFB and, thus, had to be filed before bid opening. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986); White Horse Associates, B-218872, May 21, 1985, 85-1 CPD ¶ 581.

The protest is dismissed.

Ronald Berger

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